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ISSUE

¶1. (U) Summary. This is Volume 7, issue 14 of U.S. Embassy Pretoria's South Africa Economic News weekly newsletter.

Topics of this week's newsletter are:
- Mineral Rights Expropriation Claims Push SA to Extend Claim
- Mittal Steel's New Kiln Project Draws Criticism
- Wine Industry Falters in 2006
- Africa's Only Green Bank - Nedbank
- Disapproval of Antidumping Law Proposal
- Record Tax Revenues - Again
- Growth Projections to Be Revised Upward

End Summary.

Mineral Rights Expropriation Claims Push SA to Extend Claim

¶2. (U) Italian investors in two major South African granite companies launched expropriation claims of 266 million Euro (2.5 billion rand or $349 million) against the South African government at the World Bank's International Centre for Settlement of Investment Disputes (ICSID) in January. The lawsuit claims a loss of mineral rights to the state and the cost of having to sell a 26% share in their operations. This action is the first lawsuit alleging that SA's mining charter, which seeks to boost involvement of black South Africans under Black Economic Empowerment (BEE) in this sector, amounts to expropriation. The mining charter transfers all mining rights to the government and requires mining firms to meet specific conditions to obtain a new license, including selling 26% ownership to black investors by 2014. According to the Italian firms' attorney, Peter Leon, the main part of the claim relates to the expropriation of mineral rights occurring from unused old order mining rights that were not able to be converted to new mineral rights, not to Black Economic Empowerment (BEE) requirements. The Italian mining companies are suing on the grounds the legislation is a breach of international investment law and bilateral investment treaties between SA and the Italian and Belgo-Luxemburg economic union. The hearing will likely take place over the next two years.
¶3. (U) The lawsuit, if successful, could be a catalyst for other mining companies to bring similar actions under SA law. The SA government recently announced it had extended the deadline for mining companies to file for compensation for the loss of mining rights by two years to avoid a deluge of filings before the current deadline of April 30, 2007. The extension will also allow potential claimants to obtain the results of the lawsuit before the claim deadline. (Mail and Guardian, March 9, 2007; Business Day, February 16 & March 23, 2007)

Mittal Steel's New Kiln Project Draws Criticism
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¶4. (U) Mittal Steel recently began construction of two new kilns to expand its liquid steel capacity in its Vanderbijlpark plant. According to Mittal, the surge in steel demand and the flurry of activity in infrastructure expansion require greater capacity to meet growing demand. However, Mittal's use of foreign contractors has cast a shadow over the project. The bulk of this 600 million rand ($85.7 million) project has been contracted to a Chinese firm to build the kilns and an Indian firm to build the accompanying power plant. These firms will import skilled labor to complete the job. Mittal was criticized last year for using a Chinese consortium to build a coke oven battery. The trade union, Solidarity, objects to the use of foreign labor citing that Mittal did not provide skills transfer as promised in its last project. The union believes Mittal's mode of operations undermines SA's objectives to promote growth and jobs. (Business Day, March 30, 2007)

Wine Industry Falters in 2006

¶5. (U) For the first time since 1992, wine exports fell in 2006. The 3.5% drop in exports is being blamed on the strength of the rand, which reduced margins and left less money for marketing, and the twice ownership change of the biggest single brand, Kumala, according to the CEO of Wines of SA (Wosa), the industry's export arm. Kumala's exports to the UK, the industry's largest market, declined 26%. Tough competition from Australia for promotional slots in the large supermarkets is also cited for the downward slide. Another worrying trend is the rise in bulk exports and the decline in bottled wines, which has implications for the local bottling industry and undermines the drive by wine exporters to

create strong brand awareness. Bottled wine fell 7% year-on-year in 2006, while bulk sales went up 4%. However, not all is doom and gloom. Wosa believes that projecting a more "premium image" of wines bottled at the source can turn the industry around and volume sales are already up for 2007. Wosa also hopes for more government support as the industry is SA's second largest exporter after cars and car parts and employs 250,000. (Business Times, April 1, 2007; Business Day - The South African Exporter, April 2007)

Africa's Only Green Bank - Nedbank

¶6. (U) Nedbank financier and environmental lawyer Justin Smith announced that Nedbank has become the first and only bank in Africa that has adopted an environmental benchmark for promoting sustainable development, known as the "Equator Principles." Nedbank's environmental advisor, Christina Wood, defines the Equator Principles as "a comprehensive set of environmental and social guidelines for the financing of projects." Forty-one financial institutions have adopted the principles worldwide, representing 80% of this year's global project financing. The benchmark is aimed at promoting socially responsible development, and ensuring that projects financed by the banks reflect sound environmental management practices. Nedbank has begun recycling programs for paper and water and has also adopted the use of a variety of low energy devices. A Nedbank study reports that over 70% of the staff is proud to be working for a bank with a commitment to the community and the environment.

¶7. (U) Smith notes that most South African leading firms are not participating in this initiative. He said that more than 40 percent of the top 40 companies in the Johannesburg Securities Exchange do not have an environmental officer, and about 16% have either weak or no sustainable development reports. Smith also opines that the SA government has not worked well on commercially sustainable development policies. He notes that the government did not include sustainable development in the Black Economic Empowerment (BEE) charters. He also commented that the civil society has remained too silent on the issue of sustainable development promotion within financial institutions. (Business Day, February 19, 2007)

Disapproval of Antidumping Law Proposal

¶8. (U) The International Trade Administration Commission (ITAC) is facing criticism for its proposed revisions to SA's antidumping regulations released on March 29, 2007 for comment. Trade specialists argue that the changes miss the mark and that the entire proposal needs to be scrapped and re-started through proper consultation with the export/import sector. The most significant changes include new provisions for oral hearings, which trade experts think provides too much discretion in the hands of ITAC as to whether to hold hearings and lacks clarification as to the hearing format. The experts say this is dangerous given that ITAC recently refused to hold oral hearings despite good cause and the planned changes may not conform to World Trade Organization requirements. They state that the proposal should provide for both adverse parties' meetings and individual meetings with interested parties, and should not allow ITAC the ability not to impose provisional measures even where all requirements for imposition have been met. Revisions that reintroduce public interest as a factor may cause further delays in the investigation process and may lead to political interference. Lastly, an amendment to the definition of assembly operations was criticized because it will likely disqualify at least 50% of all industries in SACU from lodging antidumping applications. (Business Day - The South African Exporter, April 2007)

Record Tax Revenues - Again

¶9. (U) The South African Reserve Bank (SARB) announced record tax revenues at the end of the tax year ending March 31, 2007. Preliminary 2006-07 gross revenue was 495.1 billion rand ($67.6 billion). This is 5.5 billion rand ($751 million) more than the revised target announced on February 21, and 39 billion rand ($5.3 billion) more that the February 2006 budget forecast. Finance Minister Trevor Manuel identified higher-than-anticipated corporate profits as the most important source of unexpected revenue, but additional revenues were received in all major tax categories. The

breakdown of unexpected revenue was: corporate taxes (23.3 billion rand); individual taxpayers (7.5 billion rand); secondary tax on companies (1.7 billion rand); value added tax (3.5 billion rand); and other taxes and duties (2.5 billion rand). The additional revenues suggest that the projected revenues for 2007-08 will also have to be revised upward from 557 billion rand ($76.1 billion) when the mid-term budget review is presented to Parliament next October, since there is little reason to believe that economic growth will slow in the coming year. Furthermore, the budget surplus for 2006-07 will increase from the 0.3% of GDP projected in February to 0.8%. Manuel said he would use the surplus to reduce the country's debt load "as far as it can go and as fast as we can" in order to spend less money on interest and leave more money for other government programs, such as education and infrastructure. (Business Day and Business Report, April 2 & 3, 2007)

Growth Projections to Be Revised Upward

¶10. (U) The higher-than-expected tax revenues suggest that the economy is growing much more rapidly than had been thought. Treasury Director General Lesetja Kaganyago said SA's economy would grow at more than 5% this year, up from the February 21 budget projection of 4.8%. Kaganyago said it was heartening that domestic demand was shifting from consumption to capital formation that would "add to the future growth of the economy." He noted that if mining and agriculture were excluded, the economy was already growing at 6%, the government's GDP growth target for 2010. Finance Minister Manuel said the trend line of growth had shifted from 4.5 to 6%, but the challenge remained to raise this rate even higher by removing constraints such as red tape and inadequate infrastructure. (Business Report, April 2, 2007)

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